



Paper No.11

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JUN 17 2002

OFFICE OF PETITIONS

In re Application of:

Stewart et al.

Application No. 09/785,693

Filed: 16 February, 2001

Attorney Docket No. BEAS-01033US5

DECISION REFUSING

STATUS UNDER

37 C.F.R. §1.47(a)

This is in response to the petition under 37 C.F.R. §1.47(a)¹ filed herein on 18 January, 2002, over a 5 December, 2001, certificate of mail to reconsider the dismissal of 5 October, 2001.²

The Office regrets the delay in addressing this matter.

The petition under 37 C.F.R. §1.47(a) is **DISMISSED** as moot upon the signing of the oath/declaration by the previously unavailable co-inventor.

This application is forwarded to OIPE for completion of initial processing and then to Technology Center 2600 for examination in due course.

¹ The regulations at 37 C.F.R. 1.47 provide:

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

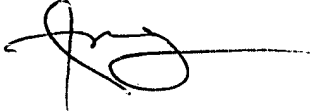
(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(c) The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

² Pursuant to Petitioner's authorization, Deposit Account 06-1325 is charged the \$130.00 petition fee.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-9199.

A handwritten signature in black ink, appearing to read "J. Gillon", with a long horizontal line extending to the right.

John J. Gillon, Jr.
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Office of Petitions
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for Patent Examination Policy